



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 41-20 Barbering and Cosmetology Regulations
18 VAC 41-70 Esthetics Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 6451 / 10311
May 15, 2024

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Board for Barbers and Cosmetology (Board) proposes to 1) extend the duration of temporary barbering, master barbering, cosmetology, nail technician, wax technician, esthetician, and master esthetician licenses from 45-days to 90-days, 2) eliminate a requirement that applicants register with the testing vendor for the license examination prior to being issued a temporary license, and 3) clarify who can supervise a temporary licensee by type of license.

Background

Under the current regulations, qualified applicants for barbering, master barbering, cosmetology, nail technician, wax technician, esthetician, and master esthetician licenses are granted a 45-day temporary license to work under licensed professionals in the same discipline while waiting to take and pass the relevant professional exam. Additionally, prior to being issued a temporary license, applicants must register with the Board's testing vendor to schedule their

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

exam. The Board proposes to extend the duration of the temporary licenses for these professions from 45-days to 90-days and eliminate the registration requirement.

According to the Board, the main purpose of the temporary licenses is to enable the qualified applicants to earn higher wages by working under supervision of a respective full licensee as soon as possible. However, the Board states that the current 45-day duration is not sufficient due to prolonged waiting periods for applicants to obtain their temporary licenses.

Applicants for a temporary license face two delays in scheduling their examinations. The first delay occurs during the initial exam scheduling process. Under the current regulations, individuals must schedule the first part of their license examination (test on theory) before they can receive the temporary license. Once the license is issued, it remains in effect for 45 days following the examination date. However, because exams are typically offered one to two months after they are requested, applicants have to wait one to two months before they actually get the license.

The second delay occurs after the approval of the temporary license. After taking the first exam, the temporary license holder must wait an additional one to two months to take the second part of the exam (test on practice). Therefore, there is a possibility that the current 45-day temporary license may expire during this period, preventing the temporary license holder from the opportunity to continue to earn income.

The Board proposes to allow individuals who completed either a training program or a registered apprenticeship, to apply to take the license examination and apply for a temporary license at the same time. Under the proposal, individuals who are issued a 90-day temporary license would be able to work under licensed professionals and earn income while waiting to take and pass the board-required examination on theory and practice.

The Board also proposes to clarify that temporary license holders must be supervised by fully licensed individuals in their respective discipline. The Board have had inquiries from nail technicians wanting to supervise wax technicians and cosmetologists supervise barbers and vice versa. This is not permitted, and the Board proposes to make it clear which professions may supervise other professions. As a result, language would be added to clarify that three professions may supervise holders of a temporary waxing license (cosmetologists, estheticians, and master estheticians); cosmetologists may supervise holders of a temporary nail license;

master estheticians may supervise holders of a temporary esthetician license; and master barbers may supervise holders of a temporary barber license.

Estimated Benefits and Costs

The proposed changes would enable temporarily licensed barbers, master barbers, cosmetologists, nail technicians, wax technicians, estheticians, and master estheticians to earn higher wages for an additional 45-day period before they are fully licensed. Temporary licenses are issued only one time, for free, and cannot be extended or renewed. The Board reports that monthly median income for barbers, hairstylists, and cosmetologists is \$2,783, or \$4,175 for a 45-day period. Thus, considering a temporary license holder would be at the beginning of their career and would likely earn below the median, they would be able to earn up to an additional \$4,174 during the term of the temporary permit under the proposal. On average, the Board issues approximately 250 temporary permits per year which equates to an additional income of up to \$1,043,500 per year in total. Also, working for an extended period under supervision could help individuals transition to their future careers with more ease. Thus, temporary license holders would likely benefit the most from the proposed changes.

In addition to the benefits to the temporary licensees, employers also are likely to gain from this proposal. According to the Board, it is an industry practice for licensed professionals to pay a salon, shop, parlor, or a spa a booth rental fee to practice there. The average booth rental fee is \$400 per month. As a result, such businesses would receive approximately an additional \$600 in booth rental income individually, representing an additional \$150,000 total industry income from 250 applicants per year.

Furthermore, a longer temporary license duration would reduce the chances of potentially having to cease work compared to the status quo. This should benefit both licensees and their employers in terms of avoiding a potential disruption in their employment arrangement.

However, it cannot be ruled out that some of the temporary permit holders may fail the theory and/or practice part(s) of the licensing exam, although the Board has no data on failure rates. If the exam is a good indicator for competency as it should, allowing a temporary license holder to practice who later fails the exam may be viewed as a potential risk to customers. The Board believes that such a potential risk is minimal by pointing out to the fact that these professionals have fulfilled the training prerequisites through either a school or apprenticeship

program and that they would operate under the supervision of a fully licensed individual in their respective profession. For these reasons, the Board believes that the proposal maintains an appropriate standard of competency and skill in service delivery, thus safeguarding the well-being of consumers.

Businesses and Other Entities Affected

The Board has averaged around 250 temporary licenses issued annually. Also, there are approximately 6,973 business licenses for shops, salons, parlors, and spas where temporary license holders may work. The proposal does not disproportionately affect any temporary license applicants.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.² An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.³ As noted above, the proposal would allow temporary license holders to earn higher income for a longer period and would generate additional booth rental income for employers. The Board also believes there are adequate safeguards in place to avoid any potential risk to well-being of consumers. Thus, no adverse impact appears to be indicated based on the Board's assessment.

Small Businesses⁴ Affected:⁵

The Board considers all 6,793 businesses where temporary licensees may work as small businesses. However, the proposed amendments do not adversely affect small businesses.

² Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

³ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁴ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

⁵ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on

Localities⁶ Affected⁷

The proposed amendments do not introduce costs or other effects for localities.

Projected Impact on Employment

The proposed changes can be expected to reduce under-employment by allowing approximately 250 individuals to earn higher wages for an additional 45-day period. The extension of temporary license would likely add to the supply of professionals affected. However, the magnitude of the net impact on total employment cannot be determined as some of these individuals may have taken other jobs during that 45-day period.

Effects on the Use and Value of Private Property

The proposed action is expected to generate additional booth rental income for employers. Thus, the asset values of such businesses may be positively affected. No effects on the real estate development costs are expected.

affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁶ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁷ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.